

CHAPTER NO. 623

SENATE BILL NO. 2556

By Cooper

Substituted for: House Bill No. 2643

By McMillan

AN ACT To amend Tennessee Code Annotated, Title 48, Chapter 21, and Chapters 201-248, relative to the ability of corporations to convert to limited liability companies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 48, Chapter 21, is amended by adding the following new section:

48-21-111. Conversion of a corporation to a limited liability company.

(a) As used in this section, the term "limited liability company" means any limited liability company formed under Chapters 201 to 248 of this title.

(b) A corporation may be converted to a limited liability company if the board of directors adopts and its shareholders approve a plan of conversion.

(c) A plan of conversion must set forth:

(1) The name of the limited liability company into which the corporation will be converted.

(2) The manner and basis of converting the shares of such corporation into membership interests of the limited liability company or a statement that such information is contained in the operating agreement proposed for such limited liability company.

(3) The effective date and time of such conversion, if later than the date and time the articles of conversion are filed.

(4) The contents of the articles of organization that shall be the articles of organization of the limited liability company unless and until modified in accordance with the provisions of Chapter 209 of this title.

(5) A statement that notification of the approval of the conversion will be deemed to be execution of the operating agreement by the persons who will be the members of the limited liability company.

(d) For a plan of conversion to become a limited liability company to be approved:

(1) The board of directors must recommend the plan of conversion to the shareholders in the same manner as provided in subsections (a) through (e) of § 48-21-104; and

(2) All of the shareholders must approve the plan of conversion.

(e) After a plan of conversion is approved by the shareholders, the corporation shall file articles of conversion with the office of the Secretary of State, which satisfy the requirements of § 48-205-101 and also shall include:

- (1) A statement that the corporation was converted to a limited liability company from a corporation;
- (2) The name and principal business address of the former corporation;
- (3) The plan of conversion;
- (4) A statement that the terms and conditions of the conversion have been approved by the unanimous vote of the shareholders;
- (5) The number of members of the limited liability company at the date of conversion.

SECTION 2. Tennessee Code Annotated, Title 48, Chapter 21, is amended by adding the following new section:

48-21-112. Effect of conversion to a limited liability company.

(a) A corporation that has been converted pursuant to § 48-21-111 shall be deemed for all purposes the same entity that existed before the conversion.

(b) When a conversion takes effect:

(1) All property owned by the converting corporation remains vested in the converted entity;

(2) All obligations and liabilities of the converting corporation continue as obligations and liabilities of the converted entity; and

(3) An action or proceeding pending against the converting corporation may be continued as if the conversion had not occurred.

(c) The converting corporation shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and such conversion shall not be deemed to constitute a dissolution of such corporation.

(d) The shares of the shareholders of the converting corporation, unless otherwise agreed to by the unanimous consent of all shareholders, shall be canceled and become of no effect whatsoever, with respect to the converted entity, and the former holders of such shares shall be entitled only to the rights provided in the plan of conversion or the operating agreement for the conversion of shares into membership interests in the converted entity. The former shareholder's liability for all obligations and liabilities of the limited liability company incurred after the conversion takes effect is that of a member as provided in Chapters 201-248 of this title.

(e) A conversion shall take effect upon the date the articles of conversion are filed, as provided in § 48-21-111(e), or on such later date as may be specified in the plan of conversion.


(f) Notwithstanding any other provision of law to the contrary, this Section 48-21-112 and Section 48-21-111 shall have no effect on the application of Title 67 and other state and federal tax statutes. Any tax consequences of the conversion of a corporation to a limited liability company as referenced herein shall continue to be controlled by applicable state and federal tax statutes as they may be amended from time to time.

SECTION 3. Tennessee Code Annotated, Section 48-202-101(3), is amended by adding the words "or corporation" after the phrase "existing partnership".

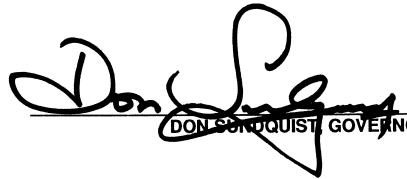
SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: March 27, 2000


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of April 2000


DON SUNDQUIST, GOVERNOR